

Municipal Council Minutes  
Wednesday, January 3, 2007  
Town Hall Auditorium  
7:30 p.m.

Meeting opened at 8:25 p.m.

Members present: Councilor King, Councilor Brennick, Councilor McClure, Councilor Lawrence, Councilor Thone, Councilor Lavoie, Councilor Lindstrom, Councilor Benson

Members absent: Councilor Pinerio

Councilor Lawrence stated that the first and only item on the agenda was the Administrative Order 2006-02; Executive Reorganization of the Administrative Branch. He asked the Mayor if he had any further comments he would like to make.

Mayor Kezer stated that in the Charter under section 10-6 (j) it requires that the Mayor establish a re-organization plan in accordance with section 6-1 of the Charter and shall submit the re-organization plan to the Municipal Council within 18 months after the initial election of a Mayor. The Mayor shall give careful consideration to the organization of Economic Development functions in the town and the streamlining of local permitting processes. This is the submittal for the re-organizational plan. He also pointed out that taking a hard look at the Economic Development functions and the streamlining of local permitting is covered by the creation of the Permitting Coordinator position in Joe Fahey's Office and as part of our streamlined permitting processes the Merrimac Valley Economic Development Council has awarded us permitting software that will be implemented throughout Town Hall which will improve our ability to track, maintain and manage all the permitting processes. He feels that all three requirements called for in the Charter have been met and are complete and he welcomed any questions.

Councilor Lawrence then asked Councilor Lavoie for the Ordinance Committee recommendations.

Councilor Lavoie stated that the motion was to discharge back to the council with a recommendation to approve administrative order 2006-02 as submitted but the Ordinance Committee be empowered thereafter to work on an ordinance to change this re-organizational plan under Charter section 6-1, (a) (1) to address the concerns that were raised in the committee and it was voted unanimously.

He stated that those concerns were: section 1.1 where it states this would supersede all prior actions. The word action is the concern. Section 1.2 Conflicts; we think could be enhanced by making it clear that if it happens to conflict with statutes or constitutions then obviously the latter would supersede; Section 1.6 on Municipal Council coordination; an issue was raised as to what the intent was and how that section would actually function. The Ordinance Committee noted Charter provision 3.8 which

allows under the Charter the legislative branch to conduct investigations and the like so finding the right words and the balance is a concern we would like to revisit. As a side note, section 4.3.6 a Charter provision on the Library Trustees; what is being proposed in the re-org may be serviceable but with the time we had we weren't able to satisfy ourselves that it is a precise perfect articulation of how this re-org should balance with the Charter on the Library Trustees.

We also did not know what Administrative Order 06-01 was.

Mayor Kezer: That was the Master Plan Implementation Oversight Committee which had eleven members and they were having a challenge getting a quorum and we changed it to 7 members.

Councilor McClure asked if a change would have to be done by the way it was presented or if the Ordinance Committee was able to adjust an executive order.

Mayor Kezer stated that under the charter section 6-1 there is two ways in which to implement executive orders or administrative orders. One is by ordinance; the legislative branch filing an ordinance and going through its process and the second is by an executive re-organization plan submitted by the Mayor. Once submitted there is a 30 day clock and the council can either accept or reject or take no action.

Councilor Lavoie stated that in addressing Councilor McClure's question, the charter doesn't say that one is the exclusion of the other, so speaking as a municipal councilor it would be his viewpoint that the council by ordinance can change what is on the table including this as it becomes effective. The recommendation of the Ordinance Committee is the concerns that they found should be taken up at the next Ordinance meeting.

Councilor King asked for clarification; the Ordinance Committee would be given the task of coming up with recommendations and then those recommendations would be given to the Mayor to resubmit the re-org. or would the recommendations be given to the Council who would then write up an ordinance to submit to change the Mayor's re-org?

Councilor Lavoie stated that one way would be to submit the concerns to the Mayor and see if he wants to submit administrative order #3 and take care of it that way or have a bill sponsored by one of the councilors to get the ball rolling on the ordinance level. It was the recommendation of the Ordinance Committee that the latter process occur and we try to address these concerns in the legislative fashion.

Councilor King stated that she would prefer that the Councilors submit that bill and then it go to Ordinance instead of ideas being generated out of the Ordinance Committee and then going to Council.

Councilor Lawrence asked for the recommendation of the Finance Committee and then they could open up for discussion.

Councilor Brennick stated that the Finance Committee was concerned with any financial impact that this might have and the Finance Committee final recommendation was to reject the re-org.

Councilor Thone asked Councilor Lavoie to review any items that conflicted with either the Charter or Mass. General Law that the committee felt was significant.

Councilor Lavoie stated that one of the members did an exhaustive study that came out this afternoon and it has been circulated and that he had not had the time to read it in the last three hours. The Ordinance Committee really didn't focus on any of those particular issues to a level that they felt comfortable putting it into a form of a motion. They do have that document and if the pleasure of the Council tonight on its motion is to have the Ordinance Committee address those concerns and have one or more councilors on that committee sponsor a bill, they are ready, willing and able to do it.

Councilor Thone stated that it sounds like the recommendation of the Ordinance Committee is to later create an ordinance that corrects some issues or problems or concerns. She stated that she is not really sure how much of that exists, the level of it and what they are. She asked if there was a way to sum it up.

Councilor Lavoie again reviewed the sections there were concerns with and also stated that a parallel recommendation of the Ordinance Committee was that he and Mr. Iacobucci be appointed as a subcommittee of the Ordinance Committee to start work on the bylaw codification that should have happened right after the Charter and every five years thereafter. In the twelve months that Ordinance has been functioning since he has been Chair they have touched on that and that it is something that should really happen.

Councilor Brennick stated that within the Finance Committees recommendation to reject, they also recommend to schedule a workshop with the Mayor to go over what is bothering the committee about the re-org and then to bring it back to the floor in February.

Councilor Lawrence thanked the Mayor for bringing the document to the Council and agreed that it is a good start. He agreed that 90% of the document is okay and his initial concerns were council communications being directed or routed through the Mayor's Office. Concerns were brought to the Councils attention by the Finance Committee as well as the Ordinance Committee. There are a few options tonight. The Council can approve, reject or accept a recommendation. The Finance Committee asked you if you would be willing to hold off on this and have a workshop and that is his thinking that in the spirit of cooperation you have another option that would be to withdraw without prejudice and re-submit at the next council meeting on January 9. They could schedule a workshop and have their concerns brought forth and this could be approved by the following meeting in February. If they go with the Ordinance Committee recommendation, that will take time, will cause confusion and you have the option of vetoing an ordinance down the road. He would like to see this withdrawn without prejudice so that they can get the concerns on board and get this done within a month.

Councilor King stated that she believed the council should support the Mayor's document as submitted this evening. When the Mayor brought this forward at the December meeting the council knew there was a thirty day limit on this. At that time she voiced her concern of it going to Ordinance and of it going to the Finance Committee. She has an immense amount of discomfort with the issues Councilor Lavoie brought up with regard to appointing a bylaw committee to do the codification of the bylaws without any council discussion. That is something that she would like to see discussion on before any of that goes through. She believes the Municipal Council tied their own hands in doing this time wise and this evening's meeting have been absurd. The Mayor ought to be given a chance. He has put forth a well thought out document and as he has stated any financial issues will be addressed when the time is appropriate; when a position is brought into play; when any financial impacts will have to go before this council during budget season. That is the time to address the impact. Regarding the Ordinance, she finds it minutia; it is wording; it is semantics. The Mayor has already said he takes full responsibility of how this document goes. This would be a great opportunity to put forth some trust in the leader that the people in this community elected.

Councilor McClure stated that she didn't feel it was a matter of trust. We are on different sides when it comes to funding for the Mayor's proposals and what he would like to do and she agrees that every CEO should make up their own organization but the money has to come from here and her concerns have not been answered. She feels it is a good document and she would like to see a workshop to help the council understand how it is being done. She stated that she had a lot more questions and is willing to support it and would like to see it get done by the next meeting.

Mayor Kezer stated that his choice would be Councilor Lavoie's option that there be some document that you write up your concerns and send it to the Mayor. He stated that he and his staff put a lot of work in this and that if there are issues that are raised, he would like to see what they are and be a part of the process to address them. He stated that having the Municipal Council start engineering the re-organization plan of the executive branch makes him nervous of what the end result would look like. In regard to the issues of timing, and time to work on this and having answers to questions and have workshops, he stated he was fine to do that but not to delay it because with all due respect, this is the body that several months ago has already done a re-organization through ordinance. It pulled the Youth Services Department out of the Economic Development Office, made it a direct report to the Mayor and there was absolutely zero input by the Department Head, zero input by the staff person who runs the program, zero input by the Mayor on it other than our objections here at the podium. There was absolutely no input, no consideration of the impact, no consideration of the union issues involved and you went ahead and just did it. He stated that frankly he feels he has done his part of following the process and making it well known to everyone in the community that this was out there and available on the webpage from day one. He stated that there were news stories on it; it was e-mailed it to the entire council the day it was submitted and yet here we are on the 29<sup>th</sup> day and this is the first time other than a few councilors, this is the first time he is getting hit with any questions by this body. He stated this is his

plan and he wants it implemented as of the first of this year because he only has one year left in this current term and there is a whole bunch of other things he wants to get done. He doesn't want any further delay. If members of the Ordinance Committee can identify what their concerns are and send them to him he will address them and if there are issues that need to be corrected, he would be more than happy to submit another administrative order and then they can then vote to accept or take no action to implement the changes.

Councilor McClure stated that the council's role is not to have private meetings with the Mayor. Their role is to have public discussion in an open meeting forum and that is what this question and answer period is about. That is why a week ago she requested that they have a workshop so that they can answer these questions and push this through tonight. It didn't happen. This is a chance to get it done before they have to put an ordinance in to fix it. She wants to get this done as soon as possible but there are too many questions to just vote on it tonight.

Councilor Lindstrom stated that she liked the document but what the Ordinance Committee found was not problems in the structure, it was problems with policy for the whole document, with the conflicts, with the superseding of former actions, with the treatment of the municipal council as a whole in regards to their ability to gain information. They need more information than is readily available to the general public. They have questions when they are trying to formulate policy or trying to come up with an ordinance or budget issues and they need it fairly quickly. I know what your intent is but that is not how it reads. It reads that the council's hands are fairly well tied according to this re-org. It is only a matter of a week to withdraw without prejudice.

Councilor Thone stated that once this was submitted the council had two options; to accept or reject. There really is no option to sit here and work through some of these issues. We knew this was coming but she thought that the next step was going to be an e-mail saying that the Mayor was going to hold a workshop so that they could look at this and talk about it so that when it did come to the table it would basically have been a slam dunk and he would have all the cooperation that he needed to have that passed. She stated that now they are sitting in a place where they have a lot of questions, concerns and issues and everything that she has heard from people who have spoken is not that they want to take control of this. They want you to withdraw this, have a workshop and re-submit. She personally doesn't want the council to have to put out an ordinance. She wants to step back and work through the issues with communication and have the Mayor submit a document that they can all compromise and agree on.

Councilor Lawrence entertained a motion at this time.

Councilor Benson motioned to approve executive order 2006-02 as submitted.

Councilor King seconded.

Councilor Benson objected to the vote.

A five minute recess was called

Councilor Lawrence reconvened the meeting.

Councilor Lawrence stated that there was discussion during the recess in regards to Councilor Bensons rejection. He read from the Charter Section 3-7 (c). He stated that this is a non measure as described in the Council Rules and Procedures therefore the objection does not stand and that they have a motion on the floor.

Councilor Thone asked for the motion to be repeated.

Councilor Benson stated that the motion was to approve as submitted.

Councilor Thone stated she would like to make an amendment to that motion that the council reject the administrative order and ask the Mayor to proceed with the workshop and re-submit at a later date and then she withdrew the amendment.

Councilor Lawrence asked for a roll call vote.

Councilor Benson: Yes  
Councilor Brennick: No  
Councilor King: Yes  
Councilor Lavoie: Yes  
Councilor Lindstrom: No  
Councilor McClure: No  
Councilor Thone: No  
President Lawrence: No

There was discussion if a second motion was needed to reject and it was decided that it was.

Councilor McClure motioned to reject the Mayor's executive order on re-organization.

Councilor Thone seconded.

Councilor Benson: No  
Councilor Brennick: Yes  
Councilor King: No  
Councilor Lavoie: No  
Councilor Lindstrom: Yes  
Councilor McClure: Yes  
Councilor Thone: Yes  
President Lawrence: Yes

Motion Carried

Councilor Benson motioned to adjourn at 9:20 p.m. Councilor McClure seconded and it was voted unanimous.

Respectfully submitted,

Sharon Dunning  
Administrative Assistant